HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.10839 of 2007

Date: September 10, 2007

Between:
Ch.John. … Petitioner.

And

Bharath Petroleum Corporation Ltd.,
(Govt. of India undertaking) rep. By its
Area Marketing Manager, 45/A,
Sarojinidevi Road Secunderabad-500 003. … Respondent

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ORDER:

The matter is coming up for admission. This court ordered notice before admission on 24.5.2007.

2. The writ petition is filed for a writ of *Mandamus* declaring the notification issued by the respondent published in Deccan Chronicle, dated 25.4.2007, inviting sealed offers for the purpose of procurement of land and also to grant dealership for retail outlets (petrol/diesel pumps) without providing reservations to SCs and STs, as illegal, arbitrary, discriminatory and violative of principles of natural justice and consequently direct the respondent to provide reservations to SCs and STs with regard to grant of dealership of retail outlets of petrol/diesel pumps in respect of Krishna District and pass such other suitable orders.

3. It is stated by the petitioner that the he is a resident of Challapalli village and Mandal of Krishna District and also Vice-President of Gram Panchayat and he belongs to Scheduled Caste community. It is also stated that the writ petition is filed being aggrieved by the notification

issued by the respondent inviting sealed offers for procurement of land for retail outlets (petrol/diesel pumps) from interested parties having clear marketable title without providing reservations for SCs and STs. It is also stated that the respondent corporation had issued impugned notification published in the Deccan Chronicle dated 25.4.2007 wherein the corporation had invited sealed tenders in a 2 bid system i.e., technical and financial bids from interested persons having marketable title for procurement of land for retail outlets (petrol/diesel pumps). It is also stated that the respondent had notified certain areas in Krishna District without providing reservations for SCs and STs. It is also stated that the scheme of selection of petroleum/diesel outlet dealers as framed by the respondent in Clause 3.1 postulates 25% was reserved for SCs and STs apart from reservations in favour of other categories, as such the impugned action is contrary to their scheme itself. It is also stated that though the notification says it was only for the purpose of acquiring land for retail outlets, but clause "O" of the notification postulates that the land owners or their nominees may be considered at the sole discretion of the Corporation for award of dealership, provided, they meet eligibility criteria/norms. It is also stated that the persons belonging to SCs and STs would be deprived of their right for consideration for dealership since most of the SCs are landless and poor persons. The petitioner could not apply, as he was not having land in respect of the places mentioned in the notification. It is further stated that the Indian Oil Corporation though issued a similar notification to acquire land, but there was a specific mention stating "this advertisement is meant only for procuring of land for Indian Oil, but it is not meant for awarding dealership. The said condition was omitted in the impugned notification thereby the corporation is going to allot dealerships in favour of land owners denying reservations. It is also further stated that the corporation had been following policy of reservation, but in the impugned notification there was no such preference given to the SCs and STs. It is also stated that since the

respondent is a Government undertaking corporation they are bound to provide reservations to the weaker sections and the impugned notification would affect his rights. It is also stated that it is difficult for a poor SC and ST candidate to procure land adjacent to road or high way. It is further stated that the petitioner also had submitted a representation in 10.5.2007 to the respondent, but there is no response from them.

4. A counter-affidavit is filed denying the allegations made in the writ petition. It is stated in para 4 of the counter-affidavit that it is true that a notification has been published in Deccan Chronicle and Vaartha daily, dated 25.4.2007, inviting offers for procurement of land either by way of outright sale/preferred lease for a period of 30 years with renewal option to the respondent corporation for setting up of retail outlets in various locations in the State of Andhra Pradesh. It is also true that certain areas of Krishna District were also notified in the advertisement. The grievance of the petitioner that he was aggrieved to the extent of places referred in the impugned notification in Krishna District as no reservations are provided for SCs and STs, is based on no material and is based on mere apprehension. It is also stated in para 5 of the counter-affidavit that it is true as per the policy guidelines laid down, 25% of the locations are to be earmarked for SC/ST. In the notification under part A wherein 87 locations were included, the company proposes to procure only land and no preference was given to the owners of the land. In respect of the locations that have been mentioned in part B and C alone, the land owners or their nominees may be considered at the sole discretion of the corporation for award of dealership, provided, they meet the eligibility criteria. It is also stated that the advertisement is only for the purpose of obtaining land and depending upon the response to the advertisement and the number of offers, the corporation receives and after finalization of the procurement of land for establishment of retail outlet, then the

corporation would follow the rule of reservation as per the policy guidelines and the notification would be issued. It is also stated that even before reaching that stage, the present writ petition had been filed. It is also further stated in para 6 of the counter-affidavit that it is true that clause (o) in the notification postulates that the land owners or their nominees may be considered at the sole discretion of the corporation for award of dealership. It is also submitted that in so far as the locations in respect of part B and C such a clause had been introduced and no such preference is there in respect of notifications mentioned in part A and the corporation had not taken any decision with regard to specific identification of the outlets which are to be reserved and kept unreserved and that was the reason the same had not been mentioned in the notification. It is further stated in para 7 of the counter-affidavit that it is true that the corporation is strictly adhering to the policy spelt out on reservation and at no point of time had any intention of deviating from the policy guidelines in offer of dealership for retail outlets in favour of SC/STs. It is further stated that the contention of the petitioner in offering dealership in favour of only land owners without providing any reservations, is untenable and the policy of reservation in favour of SC/STs would be strictly followed at the time of selection of dealers.

5. In the light of the specific stand taken by the respondent that they are following the policy of reservation, no further orders need be passed and accordingly the writ petition is hereby closed. No costs.

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(P.S.NARAYANA, J.)

Date: September 10, 2007.

BSB